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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 KENNETH THOMAS, JR.,

9 Plaintiff,

10 v.

11 CORRECTIONS OFFICER HOPF, *et al.*,

12 Defendants.

Case No. C19-1766-JCC-MLP

ORDER

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14 This is a 42 U.S.C. § 1983 prisoner civil rights action. On April 9, 2021, Plaintiff
15 Kenneth Thomas Jr. (“Plaintiff”) filed a “Motion to Reconsider Appointment of Counsel and a
16 Motion to Appoint an Independent Expert” and a “Motion for Defendants to Provide Discovery
17 under XYZ Rule” as a single filing (“Plaintiff’s Motions”). (Dkt. # 62.) Plaintiff’s Motions
18 requests: (1) that the Court reconsider appointing Plaintiff counsel in this matter; (2) that the
19 Court appoint an independent expert based off Plaintiff’s neck, back, and knee issues; and (3)
20 that Defendant Hopf be compelled to produce any disciplinary actions from supervisors,
21 grievances against him, and/or any other major misconduct reports since his employment in 2015
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1 under “Rule XYZ.”¹ (*Id.* at 1.) Plaintiff’s Motions did not provide any substantive argument
2 addressing his requests but noted that he has contacted over 30 attorneys and had “no luck”
3 finding representation. (*See id.*) On April 23, 2021, Defendant filed a response requesting that
4 the Court deny Plaintiff’s Motions. (Dkt. # 70.)

5 Under Local Rule 7(h)(1), motions for reconsideration are disfavored in this district. Such
6 motions will be granted only upon a “showing of manifest error in the prior ruling” or “new facts
7 or legal authority which could not have been brought to [the Court’s] attention earlier without
8 reasonable diligence.” LCR 7(h)(1). The motion shall be filed within 14 days after the order to
9 which it relates is filed and noted for consideration the day it is filed. LCR 7(h)(2).

10 On October 21, 2020, the Court denied Plaintiff’s initial motion for appointment of
11 counsel because the complexity of the legal issues presented in this case, and Plaintiff’s ability to
12 articulate his claims, did not constitute exceptional circumstances to justify appointment of
13 counsel. (Dkt. # 41 at 10.) The Court noted that Plaintiff was free to move for appointment of
14 counsel, if necessary, at a later date. (*Id.*) Here, Plaintiff failed to file his motion to reconsider
15 within 14 days of the Court’s determination on his appointment of counsel. *See* LCR 7(h)(2).
16 Nevertheless, the Court continues to find that exceptional circumstances do not exist in this
17 matter to justify appointment of counsel at this time. *See Wilborn v. Escalderon*, 789 F.2d 1328,
18 1331 (9th Cir. 1986) (“A finding of exceptional circumstances requires an evaluation of both the
19 likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in
20 light of the complexity of the legal issues involved.”). As such, Plaintiff additionally fails to
21 demonstrate “manifest error” or provide new facts or legal authority as required to grant
22 Plaintiff’s motion for appointment of counsel under LCR 7(h)(1).

23 ¹ Plaintiff’s Motions fails to articulate or explain “Rule XYZ” or why he is seeking discovery from Defendant on that basis. (*See* dkt. # 62 at 2.)

1 Furthermore, Plaintiff's request to appoint an independent expert based on his medical
2 issues, and request for discovery from Defendant, both failed to submit any argument or reasons
3 addressing either request. (*See* dkt. # 62.) 28 U.S.C. § 1915, "does not authorize federal courts to
4 appoint or authorize payment for expert witnesses for prisoners or other indigent litigants."
5 *Patton v. Loadholt*, 445 F.Supp.3d 802, 803 (E.D. Cal. 2020) (citations and internal quotations
6 omitted). The Court additionally notes Plaintiff's discovery motion was filed after the renewed
7 discovery deadline in this matter expired on April 5, 2021 (dkt. # 48) without a request for an
8 extension, and Defendants have since submitted a motion for summary judgment (dkt. # 65).

9 Accordingly, Plaintiff's Motions (dkt. # 62) are DENIED. The Clerk is directed to send
10 copies of this Order to the parties and to Judge Coughenour.

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12 Dated this 28th day of April, 2021.

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14 MICHELLE L. PETERSON
15 United States Magistrate Judge
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